



Employers' Rights And Responsibilities

*Under The
Missouri Employment Security Law*



Missouri Department of Labor and Industrial Relations
DIVISION OF EMPLOYMENT SECURITY

Table of Contents

Foreword	3
Introduction To Unemployment Insurance	4
Missouri Law States Public Policy	5
Online Business Registration	5
Tax Liability	6
Who Is A Liable Employer?	6
How Is Liability Established?	6
General Business Employer	6
Domestic Employer	7
Agricultural Employer	7
Nonprofit Organization 501(c)(3)	7
Government Employer	7
Voluntary Election	7
Special Reporting Situations	7
Common Paymaster	7
Leased Employees	8
Multiple Reporting Unit Numbers	8
Establishment Reporting	9
Joint Account	9
Employment	9
Covered Employment	9
Excluded Employment - General Business	10
Excluded Employment - 501(c)(3) Organizations And Governmental Entities	11
Employee Or Independent Contractor?	12
Experience Rate Account	15
Account Number	15
Beginning Tax Rate	15
Experience Rate	15
Eligibility And Computation	16
Reimbursable Employer	17
Surcharge	17
Wage Reporting And Tax Payments	17
Records	17
Wages	18
Medical/Hospitalization	18
Cafeteria Plan	18
Meals	18
Retirement Plans	19
Taxable Wage Base	19
Probationary Employment	19
Contributions And Wage Report	20
Magnetic Media Reporting	20
Interest Charges	21

Penalties	21
Assessments	22
Audits	22
Contribution Adjustments	22
State To Which Workers Are To Be Reported	23
Localized Workers	23
Multi-State Workers	23
Interstate Reciprocal Coverage Arrangement	23
Maritime Interstate Reciprocal Agreement	24
Foreign Services	24
Account Status Changes	24
Transfer Of Experience Account To A Successor	24
Exemption From Filing Reports	25
Termination Of Liability	25
Benefit Charges	26
Charges To Account Of Contributing Employer	26
Reimbursable Debits	26
Account Charge Protection For Contributing Employer	27
Determination And Appeal Rights	28
Administrative Determination	28
Appeals	28
Hearings	28
Commission Review	29
Judicial Review	29
Papers Deemed Filed	29
Shared Work Program	30
Process	30
Conditions	31
Application Format	31
Effect Upon Employer's Tax Rate	32
Posters	32
Benefit Claims	33
Filing Of Benefit Claims	33
Benefit Year	33
Base Period	33
Weekly And Maximum Benefits	34
Extended Benefits	34
Claim Notices	34
Employer's Protest Upon Receipt Of Claim Notice	34
Benefit Eligibility Requirements	35
Information Needed In Employer Protests	35
Deputy's Determination In Answer To Employer's Protest	37
Appeal From Deputy's Determination	37
Benefit Payments	38
Definitions Of Law Terms	39

Foreword

The Missouri Division of Employment Security is the state agency responsible for the administration of the unemployment insurance benefit and tax program. The Division has responsibility to both workers and employers.

We strive to administer the employer tax provisions of the law equitably in accordance with the intent of the General Assembly of the State of Missouri. An effort is made to tax employers as little as possible while at the same time provide essential benefits to workers who are unemployed through no fault of their own and who are able, available, and actively seeking work.

The State Unemployment Insurance Laws must conform to certain standards in the Federal Unemployment Tax Law administered by the United States Department of Labor. By conforming to these laws, Missouri employers are allowed to take a credit on federal unemployment tax returns, if state taxes are paid timely. This credit is allowed regardless of an employer's state tax rate.

In Missouri, Unemployment Insurance is paid entirely by employers who are liable under the Missouri Employment Security Law. No deductions are made from the workers' wages.

This handbook should be retained as a reference guide to an employer's rights and responsibilities under the Missouri Employment Security Law. For further information relating to tax liability and/or unemployment insurance benefits, write to: P.O. Box 59, Jefferson City, MO 65104-0059, call (573) 751-3215, or visit our websites at:

www.mouitax.com

www.moclaim.com

www.dolir.state.mo.us/es/dolir4b.htm

Introduction To Unemployment Insurance

Unemployment insurance has been an important factor in stopping cycles leading to economic recession and depression. The Unemployment Insurance Program began in Missouri in 1939. Since that time, many changes have occurred that have improved the program.

The problems of unemployment originated in America during the early 1900's when the frontier disappeared and the Industrial Revolution began. The great depression of the 1930's made it evident that a solution to the problems created by unemployment would have to be found.

The first Unemployment Insurance Act in the United States was enacted by the State of Wisconsin in 1932. The Federal Unemployment Tax Act was passed in 1937 and levied a tax equally against employers in all states. The first federal tax was 3.0% of wages paid to workers. However, this law permitted employers in states that adopted an acceptable Unemployment Insurance Act a tax credit of 2.7% of wages as an offset against the federal tax of 3.0%. This left a federal tax of 0.3% to administer the program and a state tax of 2.7% to pay unemployment insurance benefits.

The federal and state unemployment tax rates and employer coverage requirements have changed over the years. The federal tax rate for 1983 and 1984 was set at 3.5%. The rate was increased to 6.2% beginning in 1985.

There was no change until January 1, 1985, in the 2.7% offset credit allowed on federal unemployment tax returns to employers that paid their state unemployment insurance taxes. Since January 1, 1985, if state taxes are paid, a credit of 5.4% of taxable wages is allowed employers against the federal tax of 6.2%. This still leaves federal taxes due at the same rate of 0.8% of taxable wages paid since January 1, 1983, by employers subject to the federal tax. The offset credit is allowed on federal taxes, regardless of an employer's state tax rate, as long as state taxes are paid timely.

Missouri Law States Public Policy

The declaration of public policy of the State of Missouri incorporated into the Missouri Employment Security Law reads:

“As a guide to the interpretation and application of this law, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state resulting in a public calamity. The Legislature, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own. This law shall be liberally construed to accomplish its purpose to promote employment security both by increasing opportunities for jobs through the maintenance of a system of public employment offices and by providing for the payment of compensation to individuals in respect to their unemployment.”

Online Business Registration

The Missouri Department of Labor and Industrial Relations, Division of Employment Security and Missouri Department of Revenue have developed a combined Internet registration process allowing individuals and companies who conduct business or employ workers in Missouri to register with both agencies at once.

One application can be completed online to register taxpayers for the following:

- ◆ unemployment tax
- ◆ retail sales tax
- ◆ withholding tax
- ◆ corporate/franchise tax
- ◆ consumer's use tax
- ◆ vendor's use tax

Register at <http://www.mouitax.com>

Tax Liability

Who Is A Liable Employer?

The term “liable employer” refers to an employing unit that has become liable to cover workers for unemployment insurance benefits and to pay unemployment taxes on the workers’ wages.

The Division uses the form MODES-2699, Report to Determine Liability Status, and the Online Business Registration, to gather information to determine whether an entity is liable for state unemployment tax. An entity that employs workers is required to complete and return this form.

If liable for state unemployment tax, the Division will mail an official written determination of liability and quarterly contribution and wage reports on which to report the wages of employees. As an employer, an entity must file contribution and wage reports each calendar quarter. *(See Contribution and Wage Report.)*

The employer will continue to be liable during following years until liability is terminated. *(See Termination of Liability.)*

Multiple businesses under the same ownership are considered a single employer regardless of the number of locations within the state, however under certain conditions separate reports may be filed for each location. *(See Special Reporting Situations.)*

How Is Liability Established?

To establish liability an employing unit must meet one or more of the following criteria:

1. General Business Employer

- ◆ By having a total payroll of \$1500 or more in a calendar quarter during either the current or preceding calendar year;
- ◆ By employing a worker (not necessarily the same worker) for some portion of a day in each of 20 different weeks in either the current or preceding calendar year;
- ◆ By acquiring and continuing without interruption substantially all the business of another employer; (Applies to all types of employers.)
- ◆ By being liable under the Federal Unemployment Tax Act and employing a worker in Missouri. (Applies also to agricultural and domestic employment.) The reporting requirements of the Federal Unemployment Tax Act (FUTA) are similar to those of Missouri unemployment tax, but are not identical. Federal unemployment tax

is administered by the Internal Revenue Service. Contact the IRS for information on your liabilities for federal unemployment tax.

2. Domestic Employer

- ◆ An employer of a domestic or household worker in a private home, college sorority or fraternity, becomes liable when \$1,000 or more in cash wages are paid in a calendar quarter during the current or preceding calendar year.

3. Agricultural Employer

- ◆ An agricultural employer who, in all states combined, has 10 or more workers (not necessarily the same 10 workers) in 20 different weeks or pays \$20,000 or more in cash wages in a calendar quarter, during the current or preceding year, becomes liable to cover workers and pay unemployment taxes.

4. Nonprofit Organization 501(c)(3)

- ◆ A nonprofit organization described in 501(c)(3) of the Internal Revenue Code becomes liable if in Missouri, it employs four or more workers for some portion of a day in 20 different weeks during the current or preceding calendar year. The workers employed do not have to be the same four workers and they do not have to work at the same time of the day.

5. Government Employer

- ◆ A governmental entity is liable when it employs a worker regardless of the amount of wages paid or number of weeks workers are employed.

Voluntary Election

If an employing unit does not have sufficient employment or wages to become liable under any of the above conditions, or if they wish to provide unemployment insurance coverage for their workers who would be exempt under some provision in the law, the employing unit may request approval from the Division to become a liable employer. The voluntary election of coverage would go into effect on the first day of the quarter in which the election is made and must continue in effect for at least two complete calendar years.

Special Reporting Situations

Common Paymaster

RSMo, Section 288.090.11 sets out certain conditions for a Division approved common paymaster arrangement. Two or more related corporations or limited liability companies (classified as corporations) who

meet all the criteria listed may be approved for a “common paymaster” arrangement. A request for a common paymaster arrangement must be received by the Division at least 30 days prior to the beginning of the quarter in which the common reporting is to be effective. Approval of this common paymaster arrangement allows the corporation or limited liability company designated as the common paymaster to report the wages of their employees and concurrently employed individuals on one quarterly contribution and wage report.

Leased Employees

A “lessor employing unit” is an entity that leases employees to another business entity, referred to as “client lessee”. The lessor employing unit is liable for contributions, or payments in lieu of contributions, on wages paid to the leased employees. The “client lessee” is jointly and severally liable for any unpaid contributions, or payments in lieu of contributions, interest and penalties to the Unemployment Trust Fund unless the lessor employing unit financially guarantees payment. To financially guarantee payment, the lessor employing unit posts a surety bond, deposits securities, pledges certificate of deposit, or provides an irrevocable letter of credit in the amount equivalent to the lessor employing unit’s last yearly contributions to the Trust Fund or \$100,000, whichever is greater. If the lessor employing unit does not financially guarantee payment a separate quarterly contribution and wage report must be filed for the lessor employing unit AND each of its client lessees.

Multiple Reporting Unit Numbers

An employer with more than one business establishment may request multiple reporting unit numbers for each establishment. Such employer would be furnished separate quarterly forms to report wages of workers for each establishment. Taxable wages reported and contributions paid by each establishment would be combined by the Division into one experience rating account.

Quarterly report forms for each additional reporting number would be mailed to the address furnished by the employer. Notice of benefit claims are also mailed to such address with respect to an individual whose wages were reported on the quarterly reports under an additional reporting number. All other reports and statements would be mailed to the employer’s headquarters or principal mailing address. An employer may request separate charge sheets for charges applicable to wages reported under a multiple reporting unit number.

Establishment Reporting

Establishment reporting procedures enable this Division to mail benefit claims notices to addresses other than the employer's main address of record. If the employer requests this method, the Division assigns an alphabetic character to each claims address provided by the employer. The employer must identify the quarterly wage detail submitted to the Division with the respective alphabetic character assigned to each address to control the mailing of any claims notices. Benefit charges applicable to an individual alphabetic character are listed on separate charge sheets and mailed with the Benefit Charge Statement to the employer's main address of record. Wages for all addresses are summarized on one quarterly contribution and wage report and submitted by the employer.

Joint Account

Any employer with one or more other employers may apply to the Division to participate in a joint common experience rating account. The application contains the regulations for the formation and maintenance of joint accounts.

All joint accounts will be maintained only on a calendar year basis. Joint accounts must be maintained for a minimum period of two (2) calendar years unless terminated sooner by action of the Division.

Employment

Covered Employment

A general definition of "covered employment" means any services performed by an individual for remuneration under any contract of hire, unless otherwise specifically excluded under the law. Covered employment includes: (1) services of part-time, temporary and casual workers, as well as regular workers; (2) officers or stockholders who perform services for a corporation and receive remuneration; (3) services of agent or commission drivers who personally distribute food and beverage products (other than milk) or who distribute laundry or dry cleaning for another person; (4) services of traveling or city salespersons engaged on a full-time basis soliciting orders on behalf of an employer of merchandise for resale or supplies for use in a business operation; (5) services performed in a foreign country by an American citizen for an American employer located in Missouri.

Excluded Employment - General Business

Employment excluded from coverage under the law includes:

1. The **delivery and/or sale of newspapers** when one of the following applies:
 - a. Wages to persons under the age of eighteen who deliver newspapers or shopping news are not reportable or taxable for state and federal unemployment taxes. This exemption applies to the typical house-to-house newspaper delivery or sale, and also extends to passing out handbills and other similar types of advertising material on the street. The exemption also covers remuneration for services incidental to the delivery of the newspapers, such as assembling the sections into complete papers. This exemption does not include the distribution of magazines or house-to-house distribution of merchandise samples for advertising purposes.
 - b. Wages paid to an individual of any age for services performed as a direct seller in the trade or business of delivering or distribution of newspapers or shopping news are not reportable for state or federal unemployment taxes.
 - c. Newspaper or magazine vendors of any age are excluded from state and federal unemployment taxes for services performed at the time of sale of the papers or magazines to the ultimate consumer. This is true even if the person is guaranteed a minimum amount of compensation and/or can sell back all unsold newspapers or magazines.
2. Services performed as a **direct seller** who is engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business or services, or services of a direct seller who is engaged in the business or trade of selling or soliciting sales of consumer products in a home, or otherwise than in or affiliated with a permanent fixed retail establishment, if 80% of remuneration received is directly related to such sales rather than the number of hours worked and sales are performed under a written contract that provides the seller will not be treated as an employee for federal tax purposes;
3. Services performed in the employ of a son, daughter, or spouse or by a child under the age of 21 in the employ of the child's father or mother. This includes legally adopted, step, and foster children and parents. The exemption for **family employment** does not apply to the family of the officers or stockholders of a corporation;

4. Services as a **licensed insurance agent or an insurance solicitor** remunerated solely by commissions;
5. Services for which academic credits are given performed by an individual who is a **student** enrolled in a public or nonprofit school;
6. Services performed in the employ of a **foreign government**;
7. Services of a **licensed real estate salesperson or broker**, provided at least 80% of remuneration for services are directly related to sales performed rather than the number of hours worked, and the services are performed under a written contract that provides the individual will not be treated as an employee for federal tax purposes;
8. Services performed by an individual in a **barber or beauty shop** who pays rent or other payments to the owner or operator for use of the facilities;
9. A **motor carrier** whose operations are confined to a commercial zone or who is regulated by the Missouri Division of Transportation shall not be considered the employer of a lessor or of a truck driver paid by a lessor. Also excluded are services performed by owners who drive their own trucks for a contract or common carrier.

Excluded Employment - 501(c)(3) Organizations And Governmental Entities

Certain services performed for governmental entities and for nonprofit organizations described in Section 501(c)(3) of the Internal Revenue Code are excluded from "employment" for the purposes of the Missouri Employment Security Law. These services include:

1. Services performed in the employ of a church, or convention or association of churches;
2. Services performed in the employ of an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church, or convention or association of churches;
3. Services performed by a duly ordained, commissioned or licensed minister of a church in the exercise of the ministry;
4. Services performed by a member of a religious order in the exercise of duties required by such order;
5. Services performed by individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, if performed in a

facility conducted for carrying out a program for rehabilitation of such individuals;

6. Services performed by individuals who, because of injury, physical or mental capacity cannot be readily absorbed in the competitive labor market, if performed in a facility whose purpose is to carry out a program of providing work for such individuals;
7. Services performed by an individual receiving work-relief or work-training if the program is assisted or financed in whole or in part by a federal agency or by an agency of the state or any of its political subdivisions;
8. Services performed in the employ of a nonprofit school, college or university by a student who is enrolled and regularly attends classes at such school, college or university;
9. Services performed by a student's spouse in the employ of a nonprofit school, college or university at which the student is enrolled and regularly attends classes provided the spouse is advised at the beginning of such services that:
 - a. The employment is provided under a student-assistance program; and,
 - b. The employee is not covered by any program of unemployment insurance.
10. Services performed by an inmate of a custodial or penal institution;
11. In the employ of a governmental entity if such service is performed by an individual in the exercise of duties:
 - a. As an elected official;
 - b. As a member of a legislative body or a member of the judiciary of a state or political subdivision;
 - c. As a member of the state national guard or air national guard;
 - d. As a temporary employee due to fire, storm, snow, earthquake, flood or similar emergency;
 - e. In a position designated by the laws of this state as a major nontenured policymaking or advisory position;
 - f. In a position designated by the laws of this state as a policy-making or advisory position in which the duties ordinarily do not require more than eight hours per week.

Employee Or Independent Contractor?

The determination of whether an individual is an employee or independent contractor for Missouri Unemployment Tax purposes is

important for several reasons. Wages paid to employees generally are subject to employment taxes imposed under Missouri law, and only wages paid to employees are used to calculate unemployment benefits. Any agreement by an individual to waive rights to unemployment insurance coverage is void under the Missouri Employment Security Law.

Service performed by an individual for payment is employment unless an employer can show to the satisfaction of the Division that the employer/employee relationship does not exist. In determining the existence of the independent contractor relationship, the common law standard shall be applied. The common law, a major part of the justice system in the United States, flows chiefly from court decisions. When considering the employee/independent contractor issue, the Division does not recognize "Section 530 Safe Harbor" of the Internal Revenue Service.

Following the common law standard, the employment tax regulations provide that an employer/employee relationship exists when the business for which the services are performed, has the right to direct and control the worker who performs the services. This control refers not only to the result to be accomplished by the worker but also the means and details by which that result is accomplished. In other words, a worker is subject to the will and control of the business not only as to what work shall be done but also how it shall be done. It is not necessary that the business actually direct or control the manner in which the services are performed, it is sufficient if the business has the right to do so.

To determine whether the control test is satisfied in a particular case, the facts and circumstances must be examined. Questions about the relationship between the worker and the business are asked to ascertain the degree of control.

Facts that provide evidence of the degree of control and independence fall into three categories: behavioral control, financial control, and the type of relationship of the parties as shown below.

Behavioral control. Facts that show whether the business has a right to direct and control how the worker does the task for which the worker is hired include the type and degree of:

- ◆ Instructions the worker receives concerning the work. An employee is generally subject to the employer's instructions about when, where, and how to work. Even if no instructions are given, sufficient behavioral control may exist if the employer has the right to control how the work results are achieved.
- ◆ Training the worker is given. An employee may be trained to perform services in a particular manner. Independent contractors ordinarily

use their own methods.

Financial control. Facts that show whether the business has a right to control the business aspects of the worker's job include:

- ◆ The extent to which the worker has unreimbursed business expenses. Employees may incur unreimbursed expenses in connection with the services they perform for their business; however, independent contractors are more likely to have unreimbursed expenses than employees. Fixed ongoing costs that are incurred regardless of whether work is currently being performed are especially important.
- ◆ The extent of the worker's investment. An independent contractor often has a significant investment in the facilities he or she uses in performing services for someone else. However, a significant investment is not required.
- ◆ The extent to which the worker makes services available to the relevant market.
- ◆ How the business pays the worker. An employee is generally paid by the hour, week, or month. An independent contractor is usually paid by the job. However, it is common in some professions, such as law, to pay independent contractors hourly.
- ◆ The extent to which the worker can realize a profit or incur a loss. An independent contractor can make a profit or loss, an employee usually is paid for the time worked.

Type of relationship. Facts that show the parties type of relationship include:

- ◆ Written contracts describing the relationship the parties intended to create.
- ◆ Whether the business provides the worker with employee-type benefits, such as insurance, a pension plan, vacation pay, or sick pay.
- ◆ The permanency of the relationship. If a worker is engaged with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence that the intent was to create an employer/employee relationship.
- ◆ The extent to which services performed by the worker are a key aspect of the regular business of the company. If a worker provides services that are a key aspect of regular business activity, it is more likely that the employer will have the right to direct and control his or her activities. For example, if a law firm hires an attorney, it is likely that it will present the attorney's work as its own and would have the right to control or direct that work. This would indicate an employer/employee relationship.

Experience Rate Account

Account Number

The Division is required to establish and maintain a separate experience rate account for each employer. The account number contains 14 digits as follows, 000000-0-000-0000. The first six digits identify the account. The seventh digit is changed when a change in business ownership occurs and the account is transferred to a successor. The middle three numbers reflect the county area location, and the last four numbers are the industrial classification code designation.

Beginning Tax Rate

Each employer that becomes liable to report workers' wages and pay unemployment taxes is assigned to an industrial classification division. Until eligible for an experience rate, regular employers (not including governmental entities and certain nonprofit organizations) are assigned an annual tax rate which is the average tax rate computed during the preceding year of all employers within the industrial classification division to which assigned, or 2.7%, whichever is the highest. Nonprofit organizations described under Section 501(c)(3) of the Internal Revenue Code and governmental entities are assigned an annual tax rate of 1.0% until eligible for an experience rate. Employers participating in a shared work plan would be assigned a rate of 9.0% until eligible for an experience rate. *(See Shared Work Program.) A surcharge may increase or reduce these annual tax rates. (See Surcharge.)*

Experience Rate

The law includes a merit or experience rating provision as an incentive for employers to maintain stable employment, review claims and reduce unemployment.

The Division keeps a record of experience for each employer's account. The experience includes taxable wages reported, contributions paid and benefits charged. Contributions paid are credited to an employer's account and benefits paid to eligible claimants are charged to the accounts of the claimant's employers during the base period of the claim. These factors that are recorded in the employer's account through the preceding July 31st are used to compute annual tax rates after the employer becomes eligible for an experience rate.

The amount paid on a worker's claim is charged to the employer's account, the employer does not pay the actual amount of the claim unless they are a reimbursable employer. *(See Reimbursable Employer.)*

The employer's account is maintained for experience rating only. No employer or individual in his/her service has any claims or rights to amounts paid into the fund. All contributions are deposited into the Missouri Unemployment Compensation Fund and can only be used to pay unemployment insurance benefits to eligible individuals.

Eligibility And Computation

An employer generally becomes eligible for an experience rate after two full years of liability under the law. An experience rate is based on a ratio arrived at by dividing an employer's account balance by its average annual taxable payroll. Rates could range from 0.0% to 6.0%, not including surcharge. Rates for employers participating in a shared work plan could range from 0.0% to 9.0%, not including surcharge. (*See Shared Work Program.*)

An employer's account balance is the difference between total benefits charged and debited and contributions paid and credited, plus any unassigned surplus, through the preceding July 31st.

Depending on how long an employer was subject to the law and reported quarterly wages prior to the last July 1st, an employer's average annual taxable payroll is either:

1. One-third of the total taxable wages paid during the 36-month period prior to the last July 1st;
2. If no wages for employment were paid during any one calendar half year in the 36-month period prior to the last July 1st, the average annual taxable payroll is twice the amount of taxable wages paid during the calendar half year in this period wherein the taxable payroll was highest;
3. The average annual payroll is the total taxable wages paid during the 12-month period prior to the last July 1st;
4. If no wages for employment were paid during any one calendar half year in the 12-month period prior to the last July 1st, the average annual payroll is twice the amount of taxable wages paid during the calendar half year in the 24-month period prior to the last July 1st wherein the taxable payroll was highest.

A determination of the annual tax rate for the following year is mailed to all employers during the month of November. Such determinations are subject to appeal and a hearing by an Appeals Tribunal, provided a protest is made in writing or by FAX within 30 days of the mailing date of the rate determination. (*See Appeal Rights.*)

Reimbursable Employer

All governmental entities and nonprofit organizations with a federal exemption under Section 501(c)(3) of the Internal Revenue Code have the option to elect to reimburse the Missouri Unemployment Compensation Fund for the amount of benefits paid that were attributable to services in its employ.

Such an election must be made in writing either:

1. Within 30 days of the date the original notice of liability is mailed; or,
2. At least 30 days prior to January 1st of a calendar year for which such election shall be effective. Any election to change to reimbursable after an employer was contributing cannot be terminated for two calendar years.

Upon approval of an election to reimburse the fund, the employer will remain in that status until a request for termination of the election is filed at least 30 days prior to the calendar year of termination.

Surcharge

A surcharge is based on the fund balance and increases rates by 10%, 20% or 30% of the tax due or reduces rates by 7% or 12% of tax due, depending on the balance in the fund.

Wage Reporting And Tax Payments

Records

Employers must keep records for at least three (3) calendar years, as well as the current incomplete calendar year. The records must show the following information for each worker:

1. Worker's name and social security number;
2. Dates a worker was hired and separated;
3. Dates on which a worker performed some services;
4. The location where services were performed;
5. The amount of remuneration paid each worker;
6. The hours of each day in each pay period an individual worked in noncovered employment, and nature of work; and,
7. Wages, including commissions, bonuses, prizes and gifts. Also, tips

received by a worker from persons other than employer, if such tips are reported to the employer for social security purposes.

Wages

Reportable wages are gross cash payments, which include bonuses, commissions, vacation pay, holiday pay and termination pay. Tips are wages to the extent required to be reported under the Federal Unemployment Tax Act.

Reportable wages include reasonable cash value of any goods or services that the employee receives for work performed in lieu of money. The value of non-cash considerations is reportable for all types of employment except domestic or agricultural.

Medical/Hospitalization

The law exempts from wages, payments made by an employer to or on behalf of a worker for medical or hospitalization expense or death, including payments made into a fund, annuity, or for insurance, for these purposes, provided such payments are made under a plan that applies to all workers or a class of workers. Payments made to an employee for income replacement due to sickness or disability would be wages unless made under a workers' compensation law. Such payments made by a third party should be reported as wages by such third party if no accounting of payments is made to the employer.

The law further exempts from wages any payments on account of sickness, accident, disability, or medical or hospitalization expenses that are made by an employer to or on behalf of an individual after the expiration of six calendar months following the date an individual last worked, regardless if such payments were made under a plan or a workers' compensation law.

Cafeteria Plan

Contributions paid by an employee and/or employer for qualified benefits to a cafeteria plan under Internal Revenue Code Section 125, are not reportable. Qualified benefits can be payments to an accident and health plan, group term life insurance premiums and dependent care assistance benefits up to the limits set by the Federal Unemployment Tax Act.

Meals

Wages do not include meals if they are provided by the employer to the worker for the employer's convenience and on the employer's premise, unless they are required to be reported under the Federal Unemployment Tax Act 26 U.S.C., Section 3306.

Retirement Plans

Any type of employer may establish such trusts or annuity plans, as described in the Internal Revenue Code, for the purpose of providing a pension, stock bonus or profit sharing plan for the benefit of employees.

Wages do not include payments made by an employer, to or on behalf of an individual to a qualified retirement plan. Elective salary reduction contributions made by an employee to a retirement plan are reportable and taxable.

Taxable Wage Base

There is a limit on the amount of wages paid to an individual worker in a calendar year on which each employer must pay a tax. The yearly taxable wage limitations are as follows:

Calendar Year	Taxable Wage Limitations
2000	\$7,500
2001	\$7,000
2002	\$7,000
2003	\$7,500

No tax is required on that part of wages paid to a worker by an employer or its predecessor during a calendar year, which exceeds the taxable wage limitations for such year. However, all wages must be reported for benefit purposes.

The taxable wage base could be increased or decreased by \$500 for any year, depending on the balance in the Unemployment Compensation Fund as of the preceding September 30, but not less than the taxable wage base for federal unemployment tax.

Probationary Employment

An individual hired on a trial basis to fill a regular job should be reported as a probationary worker if such worker's period of employment did not exceed twenty-eight (28) consecutive days. The letter "P" and the beginning and ending dates of employment should be entered on the quarterly contribution and wage report. The wages should be included in total and taxable wages. **No charges** will be made to a contributing employer's account for any benefit payments that are attributable to such wages.

Workers hired for temporary employment should not be listed as probationary.

Reimbursable employers are liable for all benefit payments. (*See Benefit Charges.*)

Contribution And Wage Report

Each liable employer is required to file a quarterly contribution and wage report. Wages earned by the worker and reported by the employer are used to determine a worker's benefit entitlement and amount of benefits if the worker becomes unemployed and meets the eligibility requirements for an unemployment insurance claim. For this reason it is important for the employer to file timely quarterly wage reports even if the employer has a 0% rate or is a reimbursable employer and no tax is due.

The quarterly contribution and wage report must show the worker's name, social security number and the amount of wages paid to each wage earner during a calendar quarter. Wages are reported when paid by the employer to the worker. Work separation dates and the beginning and ending dates of probationary employment should be included in the wage detail. (*See Probationary Employment.*)

The report is also used to summarize total and taxable wages paid during the calendar quarter and to compute the amount of contributions due on the taxable wage total. Complete instructions for preparation of this report are furnished with the report.

Contribution and wage report forms are furnished by the Division and are mailed to all established employers near the end of each calendar quarter. These reports should be filed and contributions paid during the month following the end of each calendar quarter.

No part of the contributions due can be deducted from a worker's pay.

Magnetic Media Reporting

The Division promotes the use of magnetic media by employers submitting quarterly wage data. By using Missouri formats or the federal format, an employer may magnetically report quarterly wage data. The federal format allows an employer to supply information to more than one state or federal agency using the same magnetic media. By using the National Association of State Workforce Agencies "NASWA" format, employers can report not only the wage data magnetically but the summary total information as well. (The "NASWA" format was formally called the Interstate Conference of Employment Security Agencies "ICESA" format. "ICESA" has recently changed its name to "NASWA".) The Division will accept a tape cartridge or diskette if it meets the

specifications established by the Division.

Effective January 1, 1999, all employers who are required to report W-2 A information on magnetic media to the Social Security Administration will also be required to report quarterly wage information to the Division. Currently this requirement applies to employers with 250 or more employees.

For information and specifications on magnetic reporting, please visit our website at <http://www.dolir.state.mo.us/es/ui-tax/m368.htm> or call (573) 751-3422.

Interest Charges

QUARTER	DELINQUENT AFTER*	PENALTY AFTER*
Three completed calendar months.	Quarterly report is delinquent one month after the due date.	Penalty is 10% of tax due or \$100.00, whichever is greater, for each month delinquent. Maximum penalty per report is 20% of tax due or \$200.00, whichever is greater.
January, February, March	April 30	May 31
April, May, June	July 31	August 31
July, August, September	October 31	November 30
October, November, December	January 31	February 28

* When the date falls on a Saturday, Sunday or Holiday the first working date following is considered timely.

Interest accrues at a variable rate, as established by the Internal Revenue Service, on contributions that are due and unpaid after each quarterly due date. The Division grants newly subject employers a 30-day extension from date of liability notice to file reports and pay taxes. Reports are deemed filed on the date postmarked or the date received in a Division office if personally delivered or express delivered. (*See Papers Deemed Filed.*)

Any employer may be granted an extension of time not to exceed three months for filing a quarterly contribution and wage report or payment of contributions, provided a request for an extension is made on or before the due date for filing such quarterly report.

Penalties

Because it is very important for an employer to file all contribution and wage reports timely, a penalty will be imposed if an employer fails to file any required report by the last day of the month following the date the report became delinquent. The penalty will be 10% of the

contributions due or \$100.00, whichever is greater, for each quarterly contribution and wage report not filed timely. This penalty will continue to be imposed each month or fraction of a month the report is not filed. The maximum penalty per quarter is 20% of the contributions due or \$200.00, whichever is greater. This penalty will be applied to all delinquent reports even if the employer's rate is 0% or is a reimbursable employer and no tax or interest is due.

An employer who cannot pay all the contributions due at the end of the quarter should file the report and make arrangements for payment with the Division's central office collections unit or local unemployment insurance auditor.

An employer who has an appeal pending should continue to file reports to include all wages, even those wages in dispute, to avoid penalties.

The law also provides for an additional 25% penalty if fraud or evasion is discovered.

Assessments

Failure to file reports or pay tax when due may result in an assessment against the employer for contributions, interest and penalties, real or estimated. When final, this assessment may be filed in circuit court as a tax lien. Once filed, it has the effect of a judgment subject to execution and levy of any real or personal property of the employer.

Audits

All employing units in Missouri are subject to having their records examined by an authorized representative of the Division. Audits of employers' records are conducted periodically to ascertain proper reporting of workers and wages. Failure or refusal by an employer or employing unit to make records available may result in the issuance of a subpoena to compel production of books and records.

Contribution Adjustments

The Division will make adjustments to an employer's account with respect to contributions erroneously paid within the last three years from date due, provided the contributions were not paid on wages used on a benefit claim. A refund check or a credit against future taxes will be issued on such contributions, without interest. A debit is issued for underpayment of contributions due for any periods. Interest accrues from due dates on such debits.

State To Which Workers Are To Be Reported

All states subscribe to these same tests to determine the correct state of coverage. The tests must be applied in the order listed.

Localized Workers

An individual who performs all of his/her work within Missouri, would be a localized Missouri worker. Localized Missouri work could include occasional temporary work outside of the state that is incidental to an individual's regular work in Missouri. Wages paid to localized workers must be reported to the state where the individual works, regardless of where the worker lives.

Multi-State Workers

An individual whose services are not localized in any one state is referred to as a multi-state worker. A person who customarily performs service both in Missouri and one or more other states would be reported to Missouri if: (1) the worker's base of operations is in Missouri; (2) the person had no fixed base of operations in any state where services are performed, but the employer directed and controlled the person's services from Missouri; or, (3) the person lived in Missouri and performed some services in Missouri, and the state of coverage cannot be determined by either of the first two tests.

A base of operations is a fixed place where a person **receives** work instructions, makes reports and normally departs to begin a tour of duty and returns when the tour is ended. It could be a worker's home or an employer's place of business where a worker reports with some regularity. It is **not** the place from where an employer directs, controls and generally transmits instruction and information to a worker by mail or telephone. Some multi-state workers have no fixed base of operations.

Interstate Reciprocal Coverage Arrangement

When an employee's service is not localized in any one state and none of the tests for multi-state workers apply, an employer can usually elect to cover the entire service of the worker in:

- ◆ any state in which the person works;
- ◆ any state in which the employer maintains a place of business; or,
- ◆ the state in which a worker lives.

The election must be filed with the state unemployment insurance agency to which the employer wants to report wages. Elections must be approved by all interested state agencies. Most states can enter into the Interstate Reciprocal Coverage Arrangement. Application forms are available for employers wishing to elect to cover services of multi-state workers with the Missouri Division of Employment Security.

Maritime Interstate Reciprocal Agreement

The purpose of the Maritime Agreement is to establish that services of officers and members of a vessel's crew engaged in interstate operations are covered for unemployment insurance purposes and to identify the state which will assume jurisdiction over such services.

The state of coverage is the state which is designated as the home port of the vessel on which the individual worked. That state is responsible for collection of contributions and payment of benefits.

Foreign Services

Services performed outside the United States (except Canada) by a citizen of the United States for an American employer would be covered under the Missouri Employment Security Law if:

1. The employer's principal place of business in the United States is located in Missouri; or
2. The employer has no place of business in the United States, but
 - a. The employer is an individual who is a resident of Missouri; or
 - b. The employer is a corporation which is organized under the laws of Missouri; or
 - c. The employer is a partnership or trust and the number of partners or trustees who are residents of Missouri is greater than the number who are residents of any other state; or
 - d. The employer has elected coverage of the foreign workers in Missouri and none of the above criteria is met.

Account Status Changes

Transfer Of Experience Account To A Successor

An employer should inform the Division immediately when a change in ownership of business occurs by completing the Report on Change of Business Operations. This form is furnished with each contribution and

wage report; may be downloaded from the Division website; or may be requested from the Division.

An employer's entire experience rating account is transferred to one or more successors who, at the same time, acquired and continued without interruption, substantially all the business of such predecessor.

A successor shall stand in the position of the predecessor employer in all respects, including the predecessor's separate account, actual contribution and benefit experience, annual payrolls and liability for current or delinquent contributions, interest and penalties.

If an employer transfers or sells only a portion of its business to another employer, there is no successorship. The new owner is responsible for contributions and benefit charges on the wages earned by employees after the partial acquisition. Contributions and benefit charges on any wages earned by employees prior to the date of partial acquisition are the responsibility of the previous owner.

Exemption From Filing Reports

An employer that ceases to have employment without a successor to its business may be exempted from filing reports beginning with the first day of a calendar quarter following the last date it paid any wages, provided it files an application for such exemption. The application must show the reason the employer discontinued having employment and that no employment is anticipated in the foreseeable future. An employer may request exemption from filing reports by completing the Report On Change of Business Operations. This form is furnished with each quarterly contribution and wage report, or may be requested from the Division of Employment Security.

An employer that is exempted from filing reports continues to be liable for reporting any wages it may later pay for employment subject to the Missouri Employment Security Law until or unless it terminates its liability.

Termination Of Liability

An employer may file an application to terminate liability as of January 1st of any calendar year. The application must be filed by February 10th of such year and must show that the employer and any predecessor combined had less employment and wages during the preceding calendar year than was necessary to become liable under the law. Criteria for

terminating coverage during the preceding calendar year is as follows:

General Business Employer - Did not pay as much as \$1,500 in total wages during any calendar quarter and had less than 20 weeks in which it employed a worker;

Employer of Domestic Worker - Did not pay as much as \$1,000 cash wages during any calendar quarter;

Agricultural Employer - Did not pay as much as \$20,000 cash wages during any calendar quarter and had less than 20 different weeks in which 10 or more workers were employed in all states;

Nonprofit Organizations - 501(c)(3) - Did not employ four or more workers in 20 weeks;

Governmental Entities - Did not pay any wages.

The Division will mail an application at the end of a calendar year to any employer that requests termination of coverage during the calendar year.

In addition, any employer not having knowledge of liability for prior years may file an application to terminate coverage beginning any January 1st following first year of liability if the employer files such application within 90 days from the date of receiving a notice of liability, and employment or wages during any preceding calendar year met the criteria set out above.

Benefit Charges

Charges To Account Of Contributing Employer

Each employer's account is charged in ratio to the amount of wages paid by such employer to a claimant during the base period of a claim.

The maximum amount of regular benefits chargeable on a claim within a benefit year is 26 times the weekly benefit amount. Chargeable extended benefits would be one-half (1/2) of regular benefits. (See *"Extended Benefits"*, *"Base Period"* and *"Benefit Year"* in this booklet.)

Reimbursable Debits

Reimbursing employers are charged for benefits in the same ratio as the amount of wages paid to a claimant by such employer during the base period of the claim. Reimbursing employers are billed directly for the entire amount of regular benefits and one-half (1/2) of extended benefits

paid attributable to the base period wages, except that reimbursing governmental entities must pay the entire amount of extended benefits paid. Reimbursable debits are not charged or credited to an employer's experience rating account. This method of financing benefits begins with respect to benefits paid for weeks of unemployment that occur after the effective date of an election to change to the reimbursing method.

Account Charge Protection For Contributing Employer

Benefit payments would not be charged to a contributing employer's experience account if:

1. It is found that the claimant quit the employer to accept more remunerative work or failed without good cause to accept suitable work offered by the employer;
2. The claimant was disqualified for being discharged due to misconduct connected with the work or quit without good cause attributable to the work or the employer;
3. The claimant was paid \$400 or less by the employer during the entire base period of the claim;
4. The claimant was properly reported as a probationary worker whose period of employment for the employer was 28 consecutive days or less;
5. The claimant continued to work for an employer part time on a regular reoccurring basis each week during the time such claimant received benefits to the same extent that such claimant previously worked for the employer, and the employer informs the Division of such part-time employment within 30 days from the date of notice of benefit charges;
6. It is found that the claimant quit temporary work from the employer to return to work for a regular employer. Any benefits paid claimant based on wages paid by such temporary employer are charged to claimant's regular employer;
7. The claimant quit work, which was determined not suitable, within 28 calendar days of the first day worked.

There is no account charge protection for reimbursable employers.

Employers are mailed a quarterly statement of benefits charged to their respective accounts. Reimbursable employers are mailed debit/credit memorandum with the Statement of Benefit Charges.

Statements of Benefit Charges are mailed to an employer's principal mailing address. Benefit charges attributable to wages reported and processed under an additional reporting number, or an establishment reporting code letter (*see Establishment Reporting*), are listed on separate charge sheets attached to the quarterly Statement of Benefit Charges.

Determination And Appeal Rights

Administrative Determination

A written determination is issued by a deputy concerning employer liability, worker's eligibility for benefits, benefit charges to an employer, notification to an employer of rate calculation, or assessment of unpaid taxes, penalties and interest. The notice of such determination is mailed to the employer's last known address. The deputy may reconsider a determination, for good cause, within a year from the date of mailing such determination.

Appeals

The appeal process affords all interested parties a legal recourse to an administrative determination. An appeal may be filed by any interested party. An appeal must be filed in writing within 30 days from the date the determination was mailed. The appeal must be signed by the claimant, the claimant's authorized agent, any officer or employee of the employing unit or by a licensed attorney representing either the claimant or employing unit. The appeal may be filed by mail or by FAX to the office of the Division as provided in the determination.

Hearings

An impartial referee is designated to conduct a hearing on disputed administrative determinations. Unless an appeal is withdrawn, the referee will schedule a hearing to give interested parties a reasonable opportunity to present evidence. A hearing is held at a site that is as convenient as possible for the parties. Notices of hearing are mailed at least seven days in advance of the hearing date.

All interested parties will be mailed a copy of the referee's decision. The decision shall become final, unless an application for review of the decision is filed with the Labor and Industrial Relations Commission within 30 days from the date of mailing of the referee's decision.

Commission Review

Application for a review of a referee's decision is filed with the Labor and Industrial Relations Commission of Missouri. The Commission may allow or deny the application for review. If the application is allowed, the Commission may affirm, reverse, modify or set aside the appeals decision. If the appeals decision is set aside, the Commission may take additional evidence or remand the matter back to the Appeals Tribunal with instructions. A notice of the Commission's decision is mailed to all interested parties and becomes final 10 days from the date of mailing of the notice.

Any interested party may be represented by an attorney in any proceeding before the Appeals Tribunal or the Labor and Industrial Relations Commission.

Judicial Review

Application for judicial review of the Commission's decision involving an employer's liability must be made with the appropriate appellate court within 20 days after the Commission's decision becomes final.

Papers Deemed Filed

All appeals, reports and other papers filed with this Division are deemed filed either as of the date endorsed by the United States Postal Service, or if not endorsed by the Postal Service, the date received at the Division of Employment Security or the date received by FAX to the Division's office. If the last date for filing of any papers falls on Saturday, Sunday or legal holiday, the filing shall be deemed timely if accomplished on the next day which is neither a Saturday, Sunday nor a legal holiday.

Shared Work Program

The Shared Work Unemployment Compensation Program is designed to help employers and employees. It is an alternative for employers faced with a reduction in force. It allows an employer to divide the available work or hours of work among a specified group of affected employees in lieu of a layoff, and it allows the employees to receive a portion of their unemployment benefits while working reduced hours.

Process

An interested employer may obtain a Shared Work Plan Application by contacting the Missouri Division of Employment Security, P.O. Box 59, Jefferson City, Missouri 65104-0059, telephone (573) 751-4018 or 751-6548. To participate, an employer must reduce the normal weekly hours of work for an employee in the affected unit by at least 20% (but not more than 40%) and the plan must apply to at least 10% of the employees in the affected unit who meet monetary requirements for regular unemployment compensation. If the plan is approved by the Division, workers who qualify for unemployment benefits would receive both wages and Shared Work benefits. The Shared Work benefits would be that percentage of regular unemployment benefits which matches the reduction described in the employer's plan.

For example:

A firm facing a 20% reduction in production usually lays off one-fifth of its work force. Faced with this situation, a company could retain its total work force on a four-day-a-week basis. This reduction from 40 hours to 32 hours cuts production by the required 20% without reducing the number of employees. All affected employees receive their weekly wages based on four days of work and in addition, receive a portion of unemployment compensation benefits equal to 20% of the unemployment compensation weekly benefit amount payable had the employee been unemployed a full week.

An employee normally works a 40-hour week. The employer has to reduce the work schedule by 20%. The employer submits a plan and it is approved under the Shared Work Program. The employee qualifies for regular unemployment compensation with a weekly benefit amount (WBA) of \$205.

$20\% \times 40 \text{ hour work week} = 8 \text{ hours}$

Employee works and earns wages for 32 hours

$20\% \times \$205 \text{ WBA} = \41

The employee receives \$41 of unemployment benefits in addition to the 32 hours of wages earned from the employer.

Conditions

The Division may approve a Shared Work Plan if:

- ◆ There is an “affected unit” of not less than three employees.
- ◆ The normal weekly hours of work and corresponding wages for a participating employee are reduced in the plan by not less than 20% and no more than 40%.
- ◆ The plan applies to at least 10% of the employees in the affected unit.
- ◆ The plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit.
- ◆ The employer certifies that the implementation of a Shared Work Plan and the resulting reduction in work hours is in lieu of a temporary layoff that would affect at least 10% of the employees in the affected unit and that would result in an equivalent reduction in work hours.
- ◆ The employer has filed all reports required to be filed for all past and current periods and has paid all contributions due for all past and current periods.

Conditions For Shared Work Benefits:

- ◆ An individual must accept all work offered by the participating employer for the claim period filed.
- ◆ An individual must be able to work and be available for full-time work with the participating employer.
- ◆ An individual must be eligible for regular benefits in the State of Missouri.
- ◆ No benefits will be paid to an individual who works for the participating employer more than the reduced hours specified in the plan.

Application Format

Applications must contain:

- ◆ Name and Missouri account number of employer.
- ◆ Description of how fringe benefits will be affected by the plan.
- ◆ Concurrence of a bargaining representative if one exists.
- ◆ Certification that:
 1. The plan applies to at least 10% of employees.
 2. The reduction is in lieu of temporary layoffs.
- ◆ An attached listing of affected employees showing:
 1. Full names.
 2. Social Security Numbers.

Process Once Application is Filed:

The Division shall, in writing, approve or deny a Shared Work Plan within 30 days after the day on which the plan is received.

If approved, the plan shall remain in effect for one year beginning the first day of the week in which it was approved or a later date as specified in the Shared Work Plan. The plan can be modified if the modification(s) conforms to the basic provisions of the plan and the modification(s) is approved by the Division. Any request for modification must be given as written notice to the Division at least seven (7) days before the change becomes effective.

Once the plan is approved, a bi-weekly certification form will be mailed to the employer for completion. The biweekly certification forms will continue to be mailed to the employer for each week the plan is to be followed.

Effect Upon Employer's Tax Rate

Benefits paid under Shared Work Plans are charged back against employers' accounts for use in computing general (experience) tax rates. Thus, they affect employers' tax rates in the same manner and to the same extent as other chargebacks of benefits. The 6% maximum tax rate is extended to 9% for the year the employer participates in the Shared Work Program and for three years thereafter. A surcharge may be added to these annual tax rates. *(See Surcharge.)*

Posters

Each employer is required to post and maintain a placard, "Notice to Workers Concerning Unemployment Benefits". This notice should be placed in a location that is visible to all workers. A copy of the poster can be requested from the division or downloaded from the website: www.mouitax.com If your workers do not have access to the poster, they should be notified they are covered by unemployment insurance. An Information for Workers pamphlet is mailed to a worker upon filing a claim for benefits. This same information for a worker is also available at the website: www.mocclaim.com

Benefit Claims

Filing Of Benefit Claims

A claim may be filed when a worker is totally or partially unemployed. If an individual files a new claim, it is effective as of the Sunday preceding the date of filing, regardless of the day of the week on which it is filed.

A worker is deemed partially unemployed in any week of less than full-time work if the wages payable for such week do not exceed a sum equal to the weekly benefit amount plus \$20. An employer who provides a regular employee at least 8 hours less than full-time work during a payroll week and the employee's wages are less than the weekly benefit amount plus \$20 is permitted to issue the worker a Division form MODES-15, Notice of Partial or Temporary Total Unemployment. A claim filed using this form is effective the first day of the employer's payroll week with respect to which the claim is filed. This form may be used by the worker to file a claim by mail. Any employer who furnishes partial employment may request the form from the Administrative Services Section of the Department of Labor and Industrial Relations at (573) 751-3194. The employer also may use this procedure for total unemployment in case of mass temporary layoff as provided by Division regulation. Such procedure helps to assure the employer that workers will be available when needed.

Benefit Year

When a worker files a new claim and has been paid sufficient wages to qualify for benefits, an effective date for the claim is established as stated in preceding paragraphs. This effective date also establishes the claimant's benefit year as the one-year period beginning with such effective date.

Base Period

Benefits which may be payable to a claimant during a benefit year are based on wages paid in the base period which is the first four of the last five completed calendar quarters immediately preceding the effective date of the claim. In order to qualify as an insured worker, a claimant must have wages for insured work in at least two quarters of their base period; must have been paid wages for insured work of \$1,000 or more in one quarter of their base period and total wages in their base period must be at least one and one-half times their high quarter wages. Claimants not meeting the above provisions may qualify under an alternate method by having been paid wages for insured work in at least two quarters of their base period with total base period wages which equal one and one-half times the

maximum taxable wage base. *(See Wages in this booklet for taxable wage base.)*

Weekly And Maximum Benefits

A claimant's weekly benefit amount is calculated at 4% of the wages paid to the claimant in that quarter of the base period in which wages were highest and then rounded to the next lower multiple of \$1. Thus, if a worker's high quarter wages were \$1,000, the weekly benefit amount would be \$40.

Wage credits used in this computation on claims filed on or after January 1, 2001 are limited to \$6,250 per quarter. A claimant's maximum benefit amount is \$250, requiring high quarter wages of \$6,250 or more.

Extended Benefits

When the rate of insured unemployment in Missouri equals or exceeds levels specified in the law, an eligible claimant may be paid extended benefits. The maximum amount of extended benefits payable to an eligible individual is the lesser of 50% of the amount of regular benefits or 13 times the weekly benefit amount which was payable to the claimant in the benefit year. The cost is financed by Missouri employers and the federal government.

Claim Notices

When a new claim is filed and the Division finds the claimant has had sufficient wages to qualify for benefits, a notice of the claim is mailed to the last employing unit for which the claimant worked and to each employer in the claimant's base period. Should a claimant renew this claim for benefits at any time during this benefit year, a similar notice is mailed to the last employing unit for which the claimant worked and to any base period employer who has filed a request to be notified the next time the claim is renewed.

Employer's Protest Upon Receipt Of Claim Notice

If an employer has information which it believes would cause an individual to be held ineligible or disqualified from receiving benefits, it should immediately file a protest with the Regional Claim Center of the Division where the claim was filed. The protest can be filed by mail, or by FAX. The location of the claimant's office is shown on the claim notice. A protest cannot be considered timely unless it is filed within 10 days after the claim notice was mailed. If filed by mail, the U.S. postmark or private

meter date is used to determine the date of filing. If there is both a postmark date and a private meter date, the postmark date is used. If there is no U.S. postmark or meter date, the date received by the Division will be the controlling date.

Benefit Eligibility Requirements

In order to be eligible to receive benefits, a claimant must be totally or partially unemployed, able to work and available for work. In order to be considered available for work, the claimant must be actively and earnestly seeking employment. A claimant may be ineligible if unemployed because of a suspension for misconduct connected with work, a stoppage of work due to a labor dispute or while the claimant is receiving other remuneration, such as vacation pay, holiday pay or employer pension.

A claimant may be disqualified from receiving benefits for a period of four to 16 weeks or until the claimant earns at least eight times the weekly benefit amount in insured work if the Division finds the claimant was discharged by an employer for misconduct connected with work.

A claimant may be disqualified until other employment is secured and at least 10 times the weekly benefit amount in insured work is earned if the claimant voluntarily left employment without good cause attributable to the employer or to the work. This same disqualification may apply if the claimant refused to apply for or accept suitable employment offered through the Division or directly by a former employer.

Information Needed In Employer Protests

When filing a protest, the employer should provide all available facts in regard to the case, including the date the worker was discharged, quit or refused work. This will assure that all facts are considered by the deputy in making the determination. It will also permit the deputy to make a determination without taking up the employer's time to secure a second statement. The following summary outlines the type of facts needed by the Division's deputy:

1. Quit without good cause attributable to work:
 - a. What the former employee said or did to indicate an intention to quit. If an individual simply failed to show up for work, make a statement to that effect giving the date last worked;
 - b. Complaints made by the worker concerning the work, requests for transfer to other work or for leave of absence;
 - c. Any statements by the former worker about the reason for leaving and future plans;

- d. Failure to report for work when called back after a temporary layoff.
Give date the claimant was to report for work;
 - e. Failure to return to work after expiration of authorized leaves - sick leave, vacations, etc. Give date worker failed to return;
 - f. If retirement is pursuant to terms of union contract or established policy of the employer, what were the terms of the retirement agreement.
2. Refusal of work:
- a. Evidence to show that the work offer was bona fide and was communicated to the individual. How notified - type of work - rate of pay - hours of work - location of job - date to report;
 - b. Reason given by the individual for refusing the offer and the date the job was refused;
 - c. Facts about the individual which would help the claims deputy in deciding whether the individual was justified in refusing.
3. Discharge for misconduct in connection with work:
- a. All incidents of unsatisfactory conduct which played a part in the disciplinary actions, such as warnings and reprimands - gross negligence - absenteeism - willful inefficiency -dishonesty; (Note: Information furnished to the Division is privileged under the law and not libelous.)
 - b. What was said to the former employee and what the employee said or did;
 - c. The date employee was discharged.
4. Layoff for lack of work:
- You should not protest a claim based on a separation for this reason.
5. Ability to work and availability for work:
- One of the chief provisions in the law which distinguishes unemployment insurance from a dole is that for each week of unemployment for which benefits are paid, the claims deputy must find that the claimant is able to work, available for work and actively and earnestly seeking work. The requirement of making an active and earnest search for work may be waived for those individuals who are unemployed through no fault of their own and have a definite recall date within eight weeks of the first day of their unemployment. Claimants are required to register as job applicants and are thereby exposed to job orders which employers file.

Deputy's Determination In Answer To Employer's Protest

When a claimant files for a week of benefits and upon receipt of a timely employer protest, a deputy gathers all facts in regard to the claim and issues a determination showing whether the claimant is disqualified from receiving benefits or is eligible to receive benefits. A copy of this determination is mailed to the employer filing the timely protest. In case the determination denies benefits to the claimant for any reason, the employer will be notified of the date the claimant became eligible.

When the deputy's determination disqualifies a claimant as a result of separation from work or because of refusal to accept work with the employer, the account of a contributing employer will not be charged with any subsequent benefits paid the claimant based on wages paid prior to the date of the separation or job refusal. There is no account charge protection for reimbursable employers. They will be liable for all benefit payments.

A deputy's determination involving an eligibility issue only does not relieve any employer's account of charges for weeks outside the specific ineligible period.

Appeal From Deputy's Determination

If you do not understand any determination or notice you receive about a claim, ask a claims representative for an explanation. If you disagree with a determination, you may file an appeal. You may appeal if you believe that the law was incorrectly applied or that all the facts were not considered when the determination was made. An appeal may be filed by any employee of a corporation, partnership or other business entity authorized by law. An appeal can also be filed by a licensed attorney.

Appeal rights and time limits are explained on each determination. If an appeal is not filed within the time limit, you may lose your right to appeal. The time limits for filing can only be extended for "good cause." Generally, only circumstances beyond your reasonable control will be considered good cause for late filing. You can file the appeal by mail or fax to the address listed on the determination.

After an appeal is filed, the Appeals Section will notify you of the date, time and method of the hearing. All interested parties taking part in the hearing will be allowed to provide sworn testimony. A written decision will be mailed to all interested parties after the hearing. The decision may affirm, reverse, modify or remand the determination of the deputy.

If the employer is dissatisfied with the decision of the referee, it may carry the case through subsequent appeal stages to the Missouri Labor and Industrial Relations Commission and then to the courts for a final decision.

Benefit Payments

A claimant who is determined eligible for benefits must serve a waiting week before being paid benefits. Only one waiting week is required during the benefit year. After serving the waiting week the claimant is paid benefits for subsequent weeks of total or partial unemployment if not disqualified and the deputy finds that all the eligibility requirements of the law have been met. The claimant will be paid for this waiting week after nine consecutive weeks for which benefits have been paid.

If a claimant has received benefits and later receives a backpay award for the same period, the claimant may be overpaid if the backpay is ordered by a governmental agency, court of competent jurisdiction or as a result of arbitration proceedings.

If an overpayment is established under these circumstances, the employer is required to withhold from the backpay award the amount of benefits determined overpaid. This amount is then paid to the Division by the employer.

In order for the employer to determine the amount of benefits paid in these cases, the employer should contact the central office of the Division.

Definitions Of Law Terms

Deputy - A representative of the Division designated to make investigations and administrative determinations.

Director - The administrative head of the Division of Employment Security.

Division - The Division of Employment Security, the state agency charged with the administration of the Missouri Employment Security Laws set out in Chapter 288 of the Missouri Revised Statutes.

Employer - Any employing unit that has had sufficient employment or paid sufficient wages to become liable to cover workers for unemployment insurance and pay unemployment taxes.

Employing Unit - Any individual or type of organization which has had one or more individuals in its employ.

Employment - Service performed for wages under any contract of hire.

Government Entity - The state or any political subdivision or any instrumentality of the state or of a political subdivision.

Insured Work - Employment in the service of an employer.

Referee - A person who conducts hearings and acts as an impartial referee on appeals to administrative determinations.

Wages - Cash payments or cash value of remuneration in any other form, given to an individual for personal services.

For further information relating to tax liability and/or unemployment benefits, write to: P.O. Box 59, Jefferson City, MO 65104-0059, call (573) 751-3215, or visit our websites at:

www.mouitax.com


www.moclaim.com

www.dolir.state.mo.us/es/dolir4b.htm

RELAY MISSOURI SERVICE:

Voice User Calling A Hearing/Speech Impaired User
1-800-735-2466

Hearing/Speech Impaired User Calling A Voice User
1-800-735-2966



**For Answers
to Common Employer Questions,
use our
Employer Resource Guide
on the web at
www.dolir.state.mo.us/resource.pdf.**